REMARKS/ARGUMENTS

Claims 1-120 are pending in the present application.

This Amendment is in response to the Office Action mailed April 27, 2009. In the Office Action, the Examiner rejected claims 1-32 and 38-120 under 35 U.S.C. §103(a). In addition, the Examiner indicates allowable subject matter for claims 33-37. Reconsideration in light of the remarks made herein is respectfully requested.

Responses to the Examiner's arguments

In the Office Action, the Examiner merely contends that the combination of the cited prior art references does indeed teach applicant's claimed invention without providing the specific counter-arguments or refuting applicant's arguments.

Specifically, the Examiner did not respond to Applicant's arguments in the following:

1. Buhrmann merely discloses a codec to perform A/D and D/A conversions and modulation for the transmission path (Buhrmann, col. 7, lines 33-38), not a decoder to decode an activation message.

2. Buhrmann merely discloses detecting the ring for an incoming call when an incoming call is directed to a particular mobile station (Buhrmann, col. 6, lines 19-21, lines 28-35), not sending an activation message in response to a telephony call.

3. Buhrmann merely discloses the RF unit to produce the I and Q signals for an RF codec (Buhrmann, col. 7, lines 21-32), or to perform modulation for the transmission path (Buhrmann, col. 7, lines 37-38), not transmitting a signal modulated from an information message responsive to the activation command.

4. The connection between the microprocessor 24 and the item 26 in Fig. 2 in Buhrmann merely shows the detection of the ring. It does not show the activation command and the information message.

6. Buhrmann merely discloses location as the address or the number, not the geographical location associated with a transmitter.

7. Nelms merely discloses a status/information field 402 identifies the type of information or an application other than the information services (Nelms, col. 4, lines 5-9), not related to an activation message.

8. Nelms' decoder is used to decode type of information services, such as stock market, weather, sports, news, etc. (Nelms, col. 1, lines 20-22), not related to the geographical location information of a transmitter.

9. Jones merely discloses activating a user as entering the user into the system (Jones, paragraph [0063], lines 3-4; paragraph [0066], lines 3-5) not a request for geographical location information.

10. Jones merely discloses the activation request is generated by the user (Jones, paragraph [0063], lines 3-4; paragraph [0066], lines 3-5) not a request subsystem in response to a telephony call.

11. Bjork merely discloses modeling a radio channel (Bjork, col. 7, lines 15-21), not modulating.

12. Bjork merely discloses using the white noise to model all the interference in the radio channel (Bjork, col. 7, lines 15-21), not the information message.

13. Sollenberger merely discloses mobile telephone 16 which is operating in the area of the mobile telephone system 10 (Sollenberger, col. 3, lines 52-53; Fig. 1), not a plurality of commonly coupled location transmitters. The mobile telephone 16 is incapable of broadcasting its own location information.

14. Walsh merely discloses the location information associated with a plurality of predetermined areas in the facility such as a floor, a room, etc. (Walsh, col. 10, lines 42-44, lines 54-59), not the location information of the transmitters.

The Examiner does not answer the substance of Applicant's traversal of the rejections. The Examiner merely asserts that the combination of the cited references does indeed teach applicant's claimed limitations. Applicant submits that these responses are inadequate and the Office Action is therefore incomplete.

Where a claim is refused for any reason relating to the merits thereof it should be "rejected" and the ground of rejection fully and clearly stated. See MPEP 707.07(d). **Where the applicant traverses an objection, the Examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.** See MPEP 707.07(f). An omnibus rejection of the claim "on the reference and for reasons of record" is stereotyped and usually not informative and should therefore be avoided. See MPEP 707.07(d). It is important

for an examiner to properly communicate the basis for a rejection so that the issues can be identified early and the applicant can be given fair opportunity to reply. See MPEP 706.02(j).

The Examiner should set forth in the Office Action the relevant teachings of the prior art relied upon, preferably with reference to the relevant column or page number(s) and line number(s) where appropriate. See MPEP 706.02(j). The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of a patentability and otherwise reply completely at the earliest opportunity. See MPEP 706.

The Examiner repeated the rejection without taking note of Applicant's arguments and without answering the substance of Applicant's arguments as presented in the response previously filed. The MPEP requires that the Examiner's action will be complete as to all matters. 37 CRF 1.104; MPEP 707.07. Since the Examiner's action in the Office Action is incomplete in that there is no answer to the substance of Applicant's arguments previously presented, the rejections have been improperly made.

Rejection Under 35 U.S.C. § 103

In the Office Action, the Examiner rejected:

1. Claims 1-5, 7, 10-15, 17, 61-65, 67, 71-75, 77, 81-85, 87, 91-95, 97, 101-105, 107, and 111-115 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,169,895 issued to Buhrmann et al. ("Buhrmann") in view of U.S. Patent No. 6,148,178 issued to Nelms et al. ("Nelms") and further in view of U.S. Publication No. 2003/0093218 issued to Jones ("Jones") and US Patent No. 5,831,545 issued to Murray et al. ("Murray");

2. Claims 6, 16, 66, 76, 86, 96, 106, and 116 under 35 U.S.C. §103(a) as being unpatentable over Buhrmann in view of Nelms and Jones, and further in view of Muray and U.S. Patent No. 6,084,862 issued to Bjork et al. ("Bjork");

3. Claims 8, 9, 18-20, 68-70, 78-80, 88-90, 98-100, 108-110, and 118-120 under 35 U.S.C. §103(a) as being unpatentable over Buhrmann in view of Nelms and further in view of Jones, Murray, and U.S. Patent No. 6,603,977 issued to Walsh et al. ("Walsh");

4. Claims 21-32, and 54-60 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,404,388 issued to Sollenberger et al. ("Sollenberger") in view of Jones and further in view of Murray.

5. Claims 38-53 under 35 U.S.C. §103(a) as being unpatentable over Sollenberger in view of Jones, and further in view of U.S. Patent No. 5,214,757 issued to Mauney et al. ("Mauney").

Applicant respectfully traverses the rejections and submits that the Examiner has not met the burden of establishing a prima facie case of obviousness.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. *MPEP §2143, p. 2100-129 (8th Ed., Rev. 2, May 2004).* Applicants respectfully submit that there is no suggestion or motivation to combine their teachings, and thus no *prima facie* case of obviousness has been established.

Furthermore, the Supreme Court in *Graham v. John Deere*, 383 U.S. 1, 148 USPQ 459 (1966), stated: "Under § 103, the scope and content of the prior art are to be determined; differences between the prior art and the claims at issue are to be ascertained; and the level of ordinary skill in the pertinent art resolved. Against this background, the obviousness or nonobviousness of the subject matter is determined." MPEP 2141. In *KSR International Co. vs. Teleflex, Inc.*, 127 S.Ct. 1727 (2007) (Kennedy, J.), the Court explained that "[o]ften, it will be necessary for a court to look to interrelated teachings of multiple patents; the effects of demands known to the design community or present in the marketplace; and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue." The Court further required that an explicit analysis for this reason must be made. "[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR 127 S.Ct.* at 1741, quoting *In re Kahn*, 441 F.3d 977, 988

(Fed. Cir. 2006). In the instant case, Applicant respectfully submits that there are significant differences between the cited references and the claimed invention and there is no apparent reason to combine the known elements in the manner as claimed, and thus no *prima facie* case of obviousness has been established.

1. Claims 1-5, 7, 10-15, 17, 61-65, 67, 71-75, 77, 81-85, 87, 91-95, 97, 101-105, 107, and 111-115:

Buhrmann discloses a landline-supported private base station for collecting data and switchable into a cellular network. When an incoming call is directed to a particular mobile station, the private base station detects the ring and sends an alerting signal to the registered mobile station (Buhrmann, col. 6, lines 19-21, 28-30). A RF circuit performs the radio frequency signal processing (Buhrmann, col. 7, lines 21-23). An RF codec performs analog-to-digital and digital-to-analog conversions of the I and Q signals in the RF circuit (Buhrmann, col. 7, lines 21-23). A mobile station obtains registration with a private base station (Buhrmann, col. 6, lines 8-10). The registration involves updating the mobile station's temporary line dialing number (Buhrmann, col. 7, lines 14-16). An ordered position information is treated as the local unique address or a sub-address by the private base station 20 (Buhrmann, col. 7, lines 59-62).

Nelms discloses a selective call message formatting. A receiver 204 is coupled to the antenna 202 to receive the radio frequency signals (Nelms, col. 5, lines 67; col. 6, lines 1). A demodulator 206 is coupled to the receiver 204 to recover any information signal present in the RF signals (Nelms, col. 6, lines 1-4). A decoder 212 decodes the signal for the status/ information field 402 to determine if the message contains individual selective call messages or information services data (Nelms, col. 6, lines 24-27).

Jones discloses a system and method for an advance notification system for monitoring and reporting proximity of a vehicle. The contact information can be manually entered or downloaded into the user database 78 in order to activate a user for the system 10 (Jones, paragraph [0063], lines 1-4). A request for activation is a request for the user to be entered into the system 10) (Jones, paragraph [0063], lines 3-5). A message manager 82 prompts the user to indicate whether the call is an activation, an update of an activation, or a request for travel data (Jones, paragraph [0117], lines 6-8).

Murray discloses a method and apparatus for adjusting a communication strategy in a radio communication system using location. A selective call radio 10 has a global positioning system receiver 12 (Murray, col. 3, lines 18-19). A selective call signal transceiver station 110 transmits selective call signals to the radio 10 and receives acknowledge back selective call signals/messages, including radio transceiver location information, from the radio 10 (Murray, col. 3, lines 23-27).

Buhrmann, Nelms, Jones, and Murray taken alone or in combination, do not disclose, either expressly or inherently, suggest, or render obvious, at least one of: (1) a decoder to decode an activation message, the activation message being sent from a request subsystem via a communication medium in response to a telephony call, the decoder generating an activation command; (2) a transmitting unit coupled to the decoder to transmit a signal modulated from an information message to a receiver using a communication protocol, in response to the activation command, and (3) the information message containing a geographical location of a transmitter containing the transmitting unit, as recited in claims 1, 81, and 101; or (1) a decoder to decode an activation message, the activation message being sent from an activator in response to a telephony call, the decoder generating an activation command; (2) a receiving unit coupled to the decoder to receive a signal containing an information message upon enabled by the activation command, the information message being sent from a transmitter according to a communication protocol via a communication medium, and (3) the information message containing a geographical location of the transmitter, as recited in claims 11, 91, and 111; or (1) decoding an activation message to generate an activation command, the activation message being sent from a request subsystem via a communication medium in response to a telephony call; (2) transmitting a signal modulated from an information message responsive to the activation command, by a transmitting unit, to a receiver using a communication protocol, and (3) the information message containing a geographical location of a transmitter containing the transmitting unit, as recited in claim 61; or (1) decoding an activation message to generate an activation command, the activation message being sent from an activator in response to a telephone call; (2) receiving a signal containing an information message upon enabled by the activation command, the signal being sent from a transmitter according to a communication protocol, and (3) the information message containing a geographical location of the transmitter, as recited in claim 71.

Buhrmann merely discloses a codec to perform A/D and D/A conversions and modulation for the transmission path (Buhrmann, col. 7, lines 33-38), not a decoder to decode an activation message. Performing A/D and D/A conversions only involve transformation the signal from one domain (e.g., analog) to another domain (e.g., digital). In addition, the I and Q signals of which the conversions are performed are not related to an activation message. They merely represent the RF signal from the mobile stations (Buhrmann, col. 7, lines 21-32).

In addition, Buhrmann merely discloses detecting the ring for an incoming call when an incoming call is directed to a particular mobile station (Buhrmann, col. 6, lines 19-21, lines 28-35), not sending an activation message in response to a telephony call. The private base station merely sends an alerting signal to the mobile station (Buhrmann, col. 7, lines 28-30). In other words, it acts like a switch to connect an incoming call to the mobile station. It does not perform sending any message to a decoder.

Furthermore, Buhrmann merely discloses the RF unit to produce the I and Q signals for an RF codec (Buhrmann, col. 7, lines 21-32), or to perform modulation for the transmission path (Buhrmann, col. 7, lines 37-38), not transmitting a signal modulated from an information message responsive to the activation command. Performing modulation merely modulates a signal according to some communication scheme. It does not involve an information message. Furthermore, it does not modulate the signal in response to an activation command. The Examiner recites the connection between the microprocessor 24 and the item 26 in Fig. 2 (Office Action, page 2, paragraph number 2). However, this connection merely shows the detection of the ring. It does not show the activation command and the information message.

Moreover, Buhrmann merely discloses registering mobile stations using the dialing number (Buhrmann, col. 6, lines 15-17), or the address or a sub-address (Buhrmann, col. 7, lines59-61). Location, according to Buhrmann's teachings, merely refers to the address or the number, not the geographical location associated with a transmitter.

Nelms merely discloses a decoder decoding the signal for status/information to determine if the message contains individual selective call messages or information services data (Nelms, col. 6, lines 24-27), not an activation message. The status/information field 402 identifies the type of information or an application other than the information services (Nelms, col. 4, lines 5-9). Therefore, it is not related to an activation message.

Furthermore, Nelms' decoder is used to decode type of information services, such as stock market, weather, sports, news, etc. (Nelms, col. 1, lines 20-22). None of these information services is related to the geographical location information of a transmitter.

Jones merely discloses activating a user as entering the user into the system (Jones, paragraph [0063], lines 3-4; paragraph [0066], lines 3-5). An activation request, therefore, is a request to enter the user into the system, not a request for geographical location information. Furthermore, the activation request is generated by the user, not by a request subsystem in response to a telephony call.

Murray merely discloses a selective call signal transceiver station 110 transmits selective call signals to the radio 10 and receives acknowledge back selective call signals/messages, including radio transceiver location information, from the radio 10 (Murray, col. 3, lines 23-27), not a transmitting unit coupled to the decoder to transmit a signal modulated from an information message to a receiver using a communication protocol, in response to the activation command, and the information message containing a geographical location of a transmitter containing the transmitting unit. The call signal transceiver station 110 *receives* acknowledge back selective call signals/messages, including radio transceiver location information, from the radio 10. It does not transmit a signal modulated from an information message.

Furthermore, Murray merely discloses a selective call signal transceiver station 110 transmits selective call signals to the radio 10, not in response to a telephony call.

2. Claims 6, 16, 66, 76, 86, 96, 106, and 116:

Buhrmann, Nelms, Jones, and Murray are discussed above.

Bjork discloses a time dispersion measurement in radio communications systems. A radio channel 203 is modeled to include a Finite Impulse Response (FIR) filter 401, the output of which is added to a white noise signal. The purpose of the white noise is to ensure that the model models all of the interference in the radio channel (Bjork, col. 7, lines 15-21).

Buhrmann, Nelms, Bjork, Murray and Jones, taken alone or in any combination, do not disclose, suggest, or render obvious, at least one of (1) a decoder to decode an activation message, the activation message being sent from a request subsystem via a communication medium in response to a telephony call, the decoder generating an activation command; (2) a transmitting unit coupled to the decoder to transmit a signal modulated from an information

message to a receiver using a communication protocol, in response to the activation command; (3) the transmitting unit comprises a modulator to modulate the information message according to a modulating scheme; (4) the modulating scheme is compatible with a sound signal; and (5) the modulating scheme uses a pseudo random binary sound (PRBS).

As discussed above, Buhrmann, Nelms, Jones and Murray do not disclose or suggest elements (1) and (2) above. Therefore, a combination of Buhrmann, Nelms, Jones and Murray with any other references in rejecting claims 6, 16, 66, 76, 86, 96, 106, and 116 is improper.

Furthermore, Bjork merely discloses modeling a radio channel (Bjork, col. 7, lines 15-21), not modulating. Modeling is used to calculate the most probable transmitted data as part of a receiver. In contrast, modulating is used to transmit data, which is the opposite of receiving data. Moreover, Bjork merely discloses using the white noise to model all the interference in the radio channel (Bjork, col. 7, lines 15-21), not the information message. Interference includes co-channel interference, adjacent interference, thermal noise, and any other interference. In contrast, information message contains the information, which is the opposite of the interference.

3. Claims 8, 9, 18-20, 68-70, 78-80, 88-90, 98-100, 108-110, and 118-120:

Buhrmann, Nelms, Jones, and Murray are discussed above.

Walsh discloses a location information system for a wireless communication device and method therefor. The location information represents locations of predetermined areas, such as floors, rooms, hallway, etc. (Walsh, col. 8, lines 38-40). In an E911 application, the wireless communication unit sends the location information at least one of before, during, and after the wireless communication device communicates an emergency telephone call to a public safety answering point (Walsh, col. 11, lines 42-46).

Buhrmann, Nelms, Jones, Murray, and Walsh, taken alone or in any combination, do not disclose, suggest, or render obvious, at least one of (1) a decoder to decode an activation message, the activation message being sent from a request subsystem via a communication medium in response to a telephony call, the decoder generating an activation command; (2) a transmitting unit coupled to the decoder to transmit a signal modulated from an information message to a receiver using a communication protocol, in response to the activation command; (3) the information message includes a location identifier corresponding to location of the transmitting unit; (4) the location identifier includes global positioning system (GPS)

information, as recited in claims 8, 18, 68, 78, 88, 98, 108, and 118; and (5) the telephony call is made by a person located in proximity of the transmitter, as recite in claims 9, 19, 69, 79, 89, 99, 109, and 119; and (6) the telephony call is an emergency call using an emergency call number, as recited in claims 20, 70, 80, 90, 100, 110, and 120.

As discussed above, Buhrmann, Nelms, Jones, and Murray, taken alone or in any combination, do not disclose or suggest elements (1) and (3) above. Therefore, a combination of Buhrmann, Nelms, Jones, and Murray and any other references in rejecting claims 8, 9, 18-20, 68-70, 78-80, 88-90, 98-100, 108-110, and 118-120 is improper.

Furthermore, Buhrmann merely discloses a private base station collecting data including temperature readings, energy usage (Buhrmann, col. 2, lines 21-23), not location information of the transmitting unit. Similarly, Nelms merely discloses presenting messages in a consistent manner across a number of selective call devices (Nelms, col. 1, lines 31-35), not information location of the transmitter. Accordingly, neither Buhrmann nor Nelms discloses or suggests location information; and therefore location identifier; and the telephony call being made by a person located in proximity of the location of the transmitting unit. The Examiner even concedes that a combination of Buhrmann, Nelms, Jones, and Murray does not specifically disclose the location identifier including the global positioning system (GPS) information (Office Action, page 7, lines 5-6), and the telephony call being made by a person located in proximity of the location of the transmitting unit (Office Action, page 7, lines 14-16). Accordingly, the combination of Buhrmann, Nelms, Jones, and Murray with Walsh in rejecting claims 8, 9, 18-20, 68-70, 78-80, 88-90, 98-100, 108-110, and 118-120 is improper because there is no motivation to combine them.

Moreover, Walsh merely discloses the location information associated with a plurality of predetermined areas in the facility such as a floor, a room, etc. (Walsh, col. 10, lines 42-44, lines 54-59), not the location information of the transmitters. Walsh does not disclose or suggest the telephone call made by a person located in proximity of the location of the transmitting unit. Walsh merely discloses location descriptions associated with a plurality of predetermined areas 210-213 (Walsh, col. 8, lines 18-21). Since these are predetermined areas, they cannot be associated with a person making a telephone call who may be located outside these areas.

4. Claims 21-32, and 54-60:

Jones, and Murray are discussed above.

Sollenberger discloses method and apparatus for enhanced 911 location using power control in a wireless system. A mobile telephone system 10 includes a mobile switching center (MSC) 20, coupled to a plurality of base stations 18, each with an associated antenna 14 (Sollenberger, col. 4, lines 33-35). A user of the mobile telephone 16 dials 911. In response, the MSC 20 determines that the location function is to be invoked and initiates an instruction to increase the transmit power of the mobile telephone 16 to a higher level. The MSC 20 then transmits the increase power instruction to the mobile telephone 16 via a control channel of the serving base station 18 (Sollenberger, col. 7, lines 7-19). The MSC 20 is caused to locate a mobile telephone 16 and provide the location information to the appropriate party (Sollenberger, col. 7, lines 66- col. 8, line 2). The MSC 20 receives a call from a mobile telephone, including an A number (the telephone number of the mobile telephone) and a B number (the dialed number) (Sollenberger, col. 8, lines 5-6). The MSC 20 determines whether to invoke the location function based on the A or B number received (Sollenberger, col. 8, lines 7-8). The location information is transmitted to a desired destination based on the application (Sollenberger, col. 10, lines 38-40). This may include a GIS in response to a 911 emergency telephone call. The GIS may correlate degrees of longitude and latitude embodied in location information to an indication of a location on a street map of a geographical area. The street map may then be communicated to a public service provider with the location of the mobile telephone on the street map highlighted based on the location information. The location information may also be transmitted to a database for storage and tracking, to the mobile telephone 16 itself or to, for example, a third party such as a fleet vehicle command and control center (Sollenberger, col. 10, lines 44-57).

Sollenberger, Jones, and Murray, taken alone or in combination, do not disclose, either expressly or inherently, suggest, or render obvious, at least one of: (1) A network comprising a plurality of commonly coupled location transmitters, each transmitter comprising a transmission unit to broadcast a signal modulated from an information message containing respective geographical location information upon receipt of an activation request that requests the geographical location information, the activation request being generated from a request subsystem in response to a telephony call, as recited in claim 21; (2) a receiver to receive

geographical location information associated with a transmitter , the geographical location information being transmitted by the transmitter in response to a telephony call; (3) a processor coupled to the receiver to process the geographical location information and to enable the receiver to receive the geographical location information; (4) a network interface coupled to the processor to transmit the geographical location information over a network, as recited in claims 54 and 57; (5) a location sensor to provide geographical location information embedded in an information message in response to a telephony call; (6) a determination unit coupled to the sensor, the determination unit to determine the geographical location information from the information message; and (7) a network interface coupled to the determination unit to selectively transmit the geographical location information over a network, as recited in claim 60.

Sollenberger merely discloses mobile telephone 16 which is operating in the area of the mobile telephone system 10 (Sollenberger, col. 3, lines 52-53; Fig. 1), not a plurality of commonly coupled location transmitters, each transmitter comprising a transmission unit to broadcast a signal modulated from an information message containing respective geographical location information. The mobile telephone 16 is not a transmitter that broadcast a signal modulated from an information message containing respective geographical location information. It is the MSC 20 that determines the location of the mobile telephone 16. The mobile telephone 16 is incapable of broadcasting its own location information.

In addition, Sollenberger merely discloses the MSC 20 determines whether to invoke the location function based on the A or B number received (Sollenberger, col. 8, lines 7-8), not to broadcast a signal modulated from an information message containing respective geographical location information. The location function depends on the received numbers A and B. Therefore, it is not broadcast upon receipt of an activation request that requests the geographical location information.

Furthermore, as admitted by the Examiner, Sollenberger does not disclose or suggest receiving an activation request. In contrast, the claimed invention broadcasts the respective geographical location information upon receipt of an activation request from a request subsystem.

Moreover, Sollenberger merely discloses a public service provider 30 receives the location information (Sollenberger, col.5, lines 65-67), not a receiver being enabled by a

processor. In contrast, claim 54 recites, in part, "a processor . . . to enable the receiver to receive the location information."

In the Office Action, the Examiner contends that Sollenberger teaches a plurality of transceivers, citing col. 7, lines 12-16, col. 9, lines 53-56, and col. 10, lines 51-58 (Office Action, page 8, paragraph 5). However, these excerpts do not provide the support for the Examiner's arguments. To ease reference, the cited excerpts are copied below.

> "Subsequently, the MSC 20 initiates an instruction to increase the transmit power of the mobile telephone 16 to a higher level and preferably to a maximum power level so that the **mobile telephone signal will be received at a plurality of antennas 14** of the mobile telephone system 10." (Sollenberger, col. 7, lines 12-16. *Emphasis added.*)
>
> "Based on phase differences in an incoming signal as **received at a plurality of antenna elements**, an estimate of the direction of the signal or angle of arrival may be made." (Sollenberger, col. 9, lines 53-56. *Emphasis added.*)
>
> "The street map may then be communicated to a public service provider with the location of the mobile telephone on the street map highlighted based on the location information. This may assist the police or other public service provider in finding the user of the mobile telephone in a rescue operation. **The location information may also be transmitted** to a database for storage and tracking, **to the mobile telephone 16 itself** or to, for example, a third party such as a fleet vehicle command and control center." (Sollenberger, col. 10, lines 48-58. *Emphasis added.*)

As seen from the above excerpts, Sollenberger merely discloses mobile telephone 16 which is incapable of broadcasting its own location information, as discussed above. In addition, col. 9, lines 53-56, merely discloses a receiving scheme using multi-element antennas, to estimate the direction of the signal or angle of arrival. This has nothing to do with a plurality of commonly coupled location transmitters, recited in the rejected claims. The excerpt at col. 10, lines 48-58, discloses that the location information may be transmitted back to the mobile telephone 16 itself. In other words, *it is the mobile telephone 16 that receives the location information*, not "each transmitter comprising a transmission unit to broadcast a signal modulated from an information message containing respective geographical location information of the transmitter," as recited in the rejected claims.

Jones merely discloses activating a user as entering the user into the system (Jones, paragraph [0063], lines 3-4; paragraph [0066], lines 3-5). An activation request, therefore, is a request to enter the user into the system, not a request for geographical location information. Furthermore, the activation request is generated by the user, not by a request subsystem in response to a telephony call.

A combination of Sollenberger and Jones is therefore improper because Sollenberger cannot be modified to incorporate the teaching of Jones when Jones does not disclose or suggest any application using transmitter or receiver or an activation request to request for geographical location information. The Examiner even admits that the combination of Sollenberger and Jones does not specifically disclose an information message containing respective geographical location information of the transmitter (Office Action, page 9, lines 5-7). Accordingly, a combination of Sollenberger and Jones and Murray is improper because a combination of Sollenberger and Jones does not disclose or suggest an information message containing respective geographical location information of the transmitter.

5. Claims 38-53:

Sollenberger and Jones are discussed above.

Mauney discloses an interactive automated mapping system. A GPS receiver receives signals from global positioning satellites. A computer stores incoming GPS position information and a second computer executes a GIS database program and receives information in real-time from the GPS computer (Mauney, col. 3, lines 20-27). At regular intervals, the GPS receiver sends data packets to the GPS computer which contains position information as derived through communications with the global positioning satellites (Mauney, col. 3, lines 32-36).

Sollenberger, Jones, and Mauney, taken alone or in combination, do not disclose, suggest, or render obvious at least one of: (1) receiving a location information request from a request subsystem in response to a telephone call, the location information request requiring a geographical location information; (2) generating at least one data packet comprising the geographical location information; and (3) transmitting the at least one data packet upon receipt to a network of an activation command in response to the location information request, as recited in claim 38.

As discussed above, Sollenberger merely discloses mobile telephone 16 which is operating in the area of the mobile telephone system 10 (Sollenberger, col. 3, lines 52-53; Fig. 1), not a plurality of commonly coupled location transmitters, each transmitter comprising a transmission unit to broadcast a signal modulated from an information message containing respective geographical location information. Also, Sollenberger merely discloses the MSC 20 determines whether to invoke the location function based on the A or B number received (Sollenberger, col. 8, lines 7-8), not to broadcast a signal modulated from an information message containing respective geographical location information. Furthermore, Jones merely discloses activating a user as entering the user into the system (Jones, paragraph [0063], lines 3-4; paragraph [0066], lines 3-5). An activation request, therefore, is a request to enter the user into the system, not a request for geographical location information. Furthermore, the activation request is generated by the user, not by a request subsystem in response to a telephony call. Accordingly, a combination of Sollenberger and Jones with any other references in rejecting claims 38-53 is improper.

Moreover, Mauney merely discloses at regular intervals the GPS receiver sends data packets to the GPS computer which contains position information as derived through communications with the global positioning satellites (Mauney, col. 3, lines 32-36). Since the GPS receiver sends data packets *at regular intervals*, it cannot transmits the at least one data packet *upon receipt to a network of an activation command* in response to the location information request. Transmitting at regular intervals indicates that the transmission is performed based on some pre-determined timing intervals. Accordingly, the transmission is not done *upon receipt to a network of an activation command* in response to the location information request.

In summary, there is no motivation to combine Buhrmann, Nelms, Bjork, Jones, Murray, Mauney, Walsh, and Sollenberger because none of them addresses the problem of automatic remote communication using network telephony. There is no teaching or suggestion that, among others, decoding an activation message, the activation message being sent from a request subsystem via a communication medium in response to a telephony call, the information message containing a geographical location, a network component capable of sensing at least one of the plurality of transmitters, the network component comprising: a sensor capable of at least

intermittent coupling to a first transmitter of the plurality of transmitters to receive the respective geographical location broadcast by the first transmitter, modulating the information message according to a modulating scheme using a pseudo random binary sound (PRBS), the location identifier including the global positioning system (GPS) information, the telephony call being made by a person located in proximity of the location of the transmitting unit, a location determination unit to process the received respective location information, or a packet network to bear the packetized, respective location information is present. None of Buhrmann, Nelms, Bjork, Jones, Murray, Mauney, Walsh, and Sollenberger, read as a whole, suggests the desirability of any of the above elements. For the above reasons, the rejections under 35 U.S.C. §103(a) are improperly made.

The Examiner failed to establish a prima facie case of obviousness and failed to show there is teaching, suggestion, or motivation to combine the references. When applying 35 U.S.C. 103, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. *Hodosh v. Block Drug Col, Inc.*, 786 F.2d 1136, 1143 n.5, 229 USPQ 182, 187 n.5 (Fed. Cir. 1986). "When determining the patentability of a claimed invention which combined two known elements, 'the question is whether there is something in the prior art as a whole suggest the desirability, and thus the obviousness, of making the combination.'" *In re Beattie*, 974 F.2d 1309, 1312 (Fed. Cir. 1992), 24 USPQ2d 1040; *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 730 F.2d 1452, 1462, 221 USPQ (BNA) 481, 488 (Fed. Cir. 1984). To defeat patentability based on obviousness, the suggestion to make the new product having the claimed characteristics must come from the prior art, not from the hindsight knowledge of the invention. *Interconnect Planning Corp. v. Feil*, 744 F.2d 1132, 1143, 227 USPQ (BNA) 543, 551 (Fed. Cir. 1985). To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the Examiner to show a motivation to combine the references that create the case of obviousness. In other words, the Examiner must show reasons that a skilled artisan, confronted with the same problems as the inventor and with no

knowledge of the claimed invention, would select the prior elements from the cited prior references for combination in the manner claimed. *In re Rouffet*, 149 F.3d 1350 (Fed. Cir. 1996), 47 USPQ 2d (BNA) 1453. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or implicitly suggest the claimed invention or the Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973. (Bd.Pat.App.&Inter. 1985). The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990). Furthermore, although a prior art device "may be capable of being modified to run the way the apparatus is claimed, there must be a suggestion or motivation in the reference to do so." *In re Mills,* 916 F.2d at 682, 16 USPQ2d at 1432; *In re Fritch*, 972 F.2d 1260 (Fed. Cir. 1992), 23 USPQ2d 1780.

Moreover, the Examiner failed to establish the factual inquires in the three-pronged test as required by the *Graham* factual inquires. There are significant differences between the cited references and the claimed invention as discussed above. Furthermore, the Examiner has not made an explicit analysis on the apparent reason to combine the known elements in the fashion in the claimed invention. Accordingly, there is no apparent reason to combine the teachings of any combination of Buhrmann, Nelms, Bjork, Jones, Murray, Mauney, Walsh, and Sollenberger.

In the present invention, the cited references do not expressly or implicitly suggest any of the above elements. In addition, the Examiner failed to present a convincing line of reasoning as to why a combination of Buhrmann, Nelms, Bjork, Jones, Murray, Mauney, Walsh, and Sollenberger is an obvious application of automatic remote communication using network telephony.

Therefore, Applicant believes that independent claims 1, 11, 21, 38, 54, 57, 60, 61, 71, 81, 91, 101, and 111 and their respective dependent claims are distinguishable over the cited prior art references. Accordingly, Applicant respectfully requests the rejections under 35 U.S.C. §103(a) be withdrawn.

Conclusion

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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